

*see also*

33  
12/20/01  
JC

UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

BRETT T. CULVER,	:	
	:	
Plaintiff	:	CIVIL NO. 1:CV-01-0904
	:	
v.	:	(Judge Kane)
	:	
COMMONWEALTH OF PENNSYLVANIA,	:	
<u>et al.</u> ,	:	
	:	
Defendants	:	

**FILED**  
**HARRISBURG, PA**

DEC 19 2001

ORDER

MARY E. D'ANDREA, CLERK  
PER                      DEPUTY CLERK

**Background**

Brett T. Culver, an inmate at the Mahanoy State Correctional Institution, Frackville, Pennsylvania, ("SCI-Mahanoy"), filed this civil rights action pursuant to 42 U.S.C. § 1983. Along with his complaint, Plaintiff submitted an application requesting leave to proceed in forma pauperis under 28 U.S.C. § 1915. Named as defendants are the following SCI-Mahanoy employees: T.E. Miknich, Correctional Officer; Robert D. Shannon, Superintendent; Carol M. Dotter, Grievance Coordinator; Linda Chismar, Unit Manager; Vincent Mooney, Captain of Security; Kevin Kane, Hearing Examiner; John Doe, Property Office personnel. Plaintiff also names Martin Horn, former Secretary of the Pennsylvania Department of Corrections and Jeffrey Beard, current Secretary of the Pennsylvania Department of Corrections.

By previous Court Order, Culver was directed to demonstrate to the court that he had exhausted his administrative remedies with respect to the facts alleged in his complaint. In response

to this Court's Order, Culver submitted an amended complaint, (Doc. No. 11) and then a second amended complaint with corrections. (See Doc. Nos. 13 & 14).

Federal Rule of Civil Procedure 15(a) provides in part that "[a] party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served . . . ." This court initially notes that Rule 15 has a liberal amendment of complaint policy. Foman v. Davis, 371 U.S. 178, 181-82 (1962). Furthermore, it is well-recognized that liberal standards are to be applied to pro se litigants. Haines v. Kerner, 404 U.S. 519, 520 (1972). It is undisputed that plaintiff has not previously submitted an amended complaint or sought leave of court to do so. Nor has a responsive pleading been filed.

Thus, the proposed second amended complaint with corrections, (Doc. No. 13), will be accepted by the court. Furthermore, under Rule 15(a) when an amended complaint is filed it supersedes the original complaint.

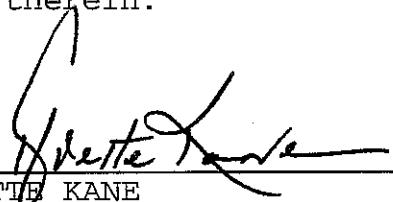
AND NOW, THIS 19th DAY OF DECEMBER, 2001, IT IS HEREBY ORDERED THAT:

1. Plaintiff's motion to proceed in forma pauperis is construed as a motion to proceed without full prepayment of fees and costs and the motion is granted.<sup>1</sup>

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1. Culver completed this court's form application to proceed in forma pauperis and authorization to have funds deducted from his

2. The United States Marshal is directed to serve plaintiff's amended complaint, (Doc. No. 13) on the defendants named therein.

  
\_\_\_\_\_  
YVETTE KANE  
United States District Judge

YK:dlb

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prison account. The court then issued an Administrative Order directing the warden at his present place of confinement to commence deducting the full filing fee from plaintiff's prison trust fund account.

UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

\* \* MAILING CERTIFICATE OF CLERK \* \*

December 19, 2001

Re: 1:01-cv-00904 Culver v. Commonwealth of Penn

True and correct copies of the attached were mailed by the clerk  
to the following:

Brett T. Culver  
SCI-MAHANoy  
DD-3483  
Mahanoy State Correctional Inst.  
301 Morea Rd.  
Frackville, PA 17931

cc:		
Judge	( / )	( ) Pro Se Law Clerk
Magistrate Judge	( )	( ) INS
U.S. Marshal	( )	( ) Jury Clerk
Probation	( )	
U.S. Attorney	( )	
Atty. for Deft.	( )	
Defendant	( )	
Warden	( )	
Bureau of Prisons	( )	
Ct Reporter	( )	
Ctroom Deputy	( )	
Orig-Security	( )	
Federal Public Defender	( )	
Summons Issued	( / )	with N/C attached to complt. and served by: U.S. Marshal ( / ) Pltf's Attorney ( )
Standard Order 93-5	( )	
Order to Show Cause	( )	with Petition attached & mailed certified mail to: US Atty Gen ( ) PA Atty Gen ( ) DA of County ( ) Respondents ( )
Bankruptcy Court	( )	
Other _____	( )	

MARY E. D'ANDREA, Clerk

DATE: 12/19/01

BY:   
Deputy Clerk